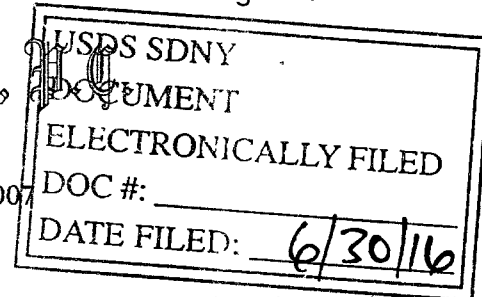


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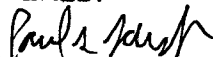
June 21, 2016

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MEMO ENDORSED

The Application is granted.

SO ORDERED:



Paul G. Gardephe, U.S.D.J.

Dated: June 30, 2016

Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

Re: Creighton v. City of New York, et al.
12 CV 07454 (PGG)

Honorable Judge Gardephe:

We represent plaintiff, Kenneth Creighton, in the instant matter. This letter is submitted to request an extension of time to submit summary judgment motions to July 5, 2016. This application is not on consent of defendants.

As the Court's docket in this matter reflects, defendants' letter application for an extension of time for the submission of motions for summary judgment, which set a briefing schedule was endorsed by Your Honor. The endorsed letter proposed that the deadline for filing summary judgment motions would be June 27 2016. However, immediately thereafter a docket entry indicates as follows:

"Set/Reset Deadlines: Motions due by 8/1/2016. Pretrial Order due by 8/1/2016. Responses due by 8/8/2016. Replies due by 7/18/2016. (tn) (Entered: 06/03/2016)"

Plaintiff's counsel took the Court's docket entry to mean that all motion deadlines, including motions for summary judgment were reset for August 1, 2016.

On June 10, 2016, the Court granted plaintiff's application for an extension of time to complete expert disclosures and stated that "Plaintiff's expert will use best efforts to issue his report by June 27, 2016".

Yesterday, defense counsel filed a letter with the Court, with our consent, requesting permission to file an oversized brief. In said letter, defense counsel stated that motions for summary judgment are due on June 27, 2016. That had not been our understanding. I spoke to defense counsel, Kevin Tadani, this morning and he indicated

that he believes the August 1, 2016 deadline in the docket entry of June 3, 2016 relates only to motions *in limine* and not motions for summary judgment.

Defense counsel's understanding of the current deadlines is at odds with ours. We note the deadline for expert disclosure was extended by Your Honor to June 27, 2016. We have worked diligently to meet that deadline and expect to be able to comply with same and exchange a Rule 26 disclosure and expert report in accordance thereto. We anticipate incorporating the expert's analysis and report into our summary judgment motion, thus if defense counsel's interpretation of the deadline is correct, we would ask for one-week additional time after receipt of the expert's report to submit summary judgment motions. Of course, if the deadline is August 1, 2016, as plaintiff's counsel read the docket, we will not need the extension requested in this letter.

In the event the deadline for summary judgment is currently June 27, 2016 and your honor grants plaintiff the extension he seeks, plaintiff respectfully proposes the following schedule:

Motions for summary judgment – July 5, 2016

Opposition papers due – July 19, 2016

Replies, if any – July 26, 2016

Joint pre-trial Order – August 1, 2016

Any responsive papers – August 8, 2016

The proposed above schedule does not affect the October 3, 2016 date set for trial.

Thank you for your consideration herein.

Sincerely yours,

PAZER EPSTEIN & JAFFE, PC



BY: MICHAEL JAFFE

RUBERT & GROSS, PC



BY: RICHARD GROSS

cc: Kevin Thadani, Esq. (via ECF)